

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 04-CV-10521-GAO

BETTY ANNE WATERS, as Administratrix of the
Estate of KENNETH WATERS,

Plaintiff

v.

TOWN OF AYER, NANCY TAYLOR-HARRIS,
in Her Individual Capacity, ARTHUR BOISSEAU,
In His Individual Capacity, BUDDY DECOT, In
His Individual Capacity, WILLIAM ADAMSON,
in His Individual Capacity, PHILIP L. CONNORS,
in His Individual Capacity, and JOHN DOE and
JANE DOES 1-16, in Their Individual Capacities,

Defendants

DEFENDANTS' MEMORANDUM IN
OPPOSITION TO MIDDLESEX
DISTRICT ATTORNEY'S OFFICE'S
MOTION TO QUASH SUBPOENA
FOR DOCUMENTS

Now come the defendants in the above captioned matter and hereby oppose the Middlesex County District Attorney's Motion to Quash plaintiff Betty Anne Water's subpoena requesting access to the prosecution file ("the file") in Commonwealth v. Kenneth Waters, Nos. Cr. 82-2026 and 82-2027. Said files pertain to the murder prosecution that underlies plaintiff's 42 U.S.C. § 1983 claims against the defendants. The defendants hereby join the plaintiff in her opposition and adopt the reasons contained in Plaintiff's Memorandum in Opposition to Middlesex County District Attorney's Office's Motion to Quash Subpoena for Documents filed in this matter and request equal access to the file subject to any reasonable protective order that may be fashioned by the parties or the Court.

Additionally, the defendants state that the District Attorney's Motion to Quash should be rejected because the information contained in that file is critical to the defense of this case. Specifically, the information contained in the District Attorney's file will

allow the defendants to determine what information was disclosed to the prosecution, the State Police, and defense counsel for Kenneth Waters by the defendant police officer, thus providing the defendant police officers with a defense to the plaintiff's Complaint. Such information will also provide an opportunity to assess whether the Commonwealth and/or its agents and officers should be joined as third party defendants. Further, the information requested is not available from any other source and not privileged. Accordingly, the Court should deny the District Attorney's Motion to Quash and allow access to the file as requested by the parties.

DEFENDANTS

By their attorneys,

/s/ Joseph L. Tehan, Jr.
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